

REMARKS

Claims 1-27 and 29-38 are pending in the present application. Claims 2, 14, 16-21 and 24 have been withdrawn. Claim 28 was previously canceled and claims 29-32, 34 and 38 are canceled in this amendment.

Claims 1, 25 and 26 have been amended to comply with the restriction group elected and to remove the proviso which is no longer needed.

Claims 8 and 11 have been amended to correct the claim dependency caused by a typographical error. These claims now properly depend from claim 1.

Claim 27 has been amended to correct the claim dependency so that they now properly depend from pending claims.

Claim 33 has been amended to depend from any one of claims 35-37.

Claims 35 – 37 have been amended as independent claims.

Claim 37 has been further amended to recite gastro-esophageal reflux disorder (GERD). Support for the amendment can be found in the Specification on page 3, line 29 to page 4, line 8, and on page 58 to line 15 to page 60, line 30.

Applicants reserve the right to file a Divisional or Continuation application directed to the subject matter not pursued in this application.

No new matter has been added.

Rejections Under 35 USC § 112, First Paragraph

The Examiner has rejected claims 29-34, 37 and 38 for lack of enablement. The Examiner states that the claims are not adequately enabled solely based on the inhibition of mGluR5 receptors provided in the Specification.

Applicants have canceled claims 28-32, 34 and 38, thereby obviating the rejection. Applicants have amended claim 37 to recite treatment of gastro-esophageal reflux disorder (GERD). GERD generally results from transient lower esophageal sphincter relaxations (TLESRs) (see page 3, line 31 to page 4, line 18. Applicants have also provided an assay for monitoring TLESRs beginning on page 58, line 15 to page 60, line 30. Thus, Applicants respectfully request reconsideration and removal of the rejection.

Rejections Under 35 USC 112, Second Paragraph

The Examiner has rejected claims 1, 3-13, 15, 22, 23, 25-27 and 29-38 for recitation of the moiety  $O(CN)OR^5$  in the definition of  $R^1$ ,  $R^2$ ,  $R^3$  and A; for recitation of the variable  $R^8$ ; and for recitation of the variables "X2, X4, X5, X8, X9 and X10" in the proviso.

Applicants have amended the claims to delete reference to  $O(CN)OR^5$  and  $R^8$  and have corrected the typographical error so that the claims now properly refer to " $X^2$ ,  $X^4$ ,  $X^5$ ,  $X^8$ ,  $X^9$  and  $X^{10}$ ," thereby overcoming the rejection.

The Examiner has rejected claims 8 and 11 as depending from "claim 0."

Applicants have amended these claims to depend from claim 1.

The Examiner has stated that claims 29-30 are substantial duplicates of claim 1.

Applicants have deleted claims 29-30, thereby obviating the rejection.

The Examiner has rejected claim 31 stating that the claim does not set forth any steps involved in the method/process.

Applicants have deleted claim 31, thereby obviating the rejection.

The Examiner has rejected claims 29-33 and 38 stating that the claim does not set forth any steps involved in determining which are the diseases capable of being mediated by the inhibition of the activity of a metabotropic glutamate receptor.

Applicants have deleted claims 29-32 and 38, thereby obviating these rejections. Applicants have also amended the dependency of claim 33 so that it now depends from claims 35-37. Applicants thus request reconsideration and removal of this rejection.

#### Rejections Under 35 USC § 101

The Examiner has rejected claim 31 for recitation of a use without setting forth any steps involved in the process.

Applicants have canceled claim 31, thereby obviating the rejection.

#### Rejections for Double Patenting

##### *Non-Statutory*

The Examiner has issued a provisional nonstatutory obviousness-type double-patenting rejection for claims 1, 3-13, 15, 22, 23, 25-27 and 29-38. The Examiner contends that these claims are not patentably distinct from each other because the compounds of formula I of the instant invention are embraced by the claims of 11/060,560 where X<sup>7</sup> is N; X<sup>8</sup> is S; X<sup>9</sup> is CR<sup>5</sup> and X<sup>10</sup> is bond. Applicants respectfully traverse.

Applicants first note that claims 29-32, 34 and 38 have been canceled, thereby obviating the rejection with respect to these claims. Applicants next submit that the claims in co-pending

application 11/060,560 have been amended so that  $X^8$  is a bond;  $X^9$  is N and  $X^{10}$  is  $(CR^5R^6)_2$ . Consequently, the compounds defined by the claims in 11/060,560 are **not** embraced by the compounds of the current claims. Accordingly, Applicants respectfully request reconsideration and removal of the provisional nonstatutory obviousness-type double-patenting rejection.

### Conclusion


Applicants submit that all of the claims remaining in the case as amended define novel, non-obvious patentable subject matter and respectfully request reconsideration, removal of the rejections and allowance of the claims.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Susan W. Gorman, Registration No 47,604 at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to our Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. § 1.16 or under § 1.17; particularly, extension of time fees.

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Respectfully submitted,

By   
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